

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS

California Rules of Court, rule 8.1115(a), prohibits courts and parties from citing or relying on opinions not certified for publication or ordered published, except as specified by rule 8.1115(b). This opinion has not been certified for publication or ordered published for purposes of rule 8.1115.

IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION TWO

THE PEOPLE,

Plaintiff and Respondent,

v.

RAYMOND TATE,

Defendant and Appellant.

B234529

(Los Angeles County
Super. Ct. No. BA380161)

THE COURT:*

Defendant and appellant Raymond Tate (defendant) appeals from his conviction of criminal threats and felony vandalism. After his appointed counsel filed a brief pursuant to *People v. Wende* (1979) 25 Cal.3d 436 (*Wende*), raising no issues, we notified defendant on February 9, 2012, of his counsel's brief and gave him leave to file, within 30 days, his own brief or letter stating any grounds or argument he might wish to have considered. Defendant filed a letter summarizing his version of the events leading to his arrest and conviction.

* BOREN, P. J., DOI TODD, J., CHAVEZ, J.

Defendant was charged by amended information with making criminal threats in violation of Penal Code section 422,¹ and felony vandalism in violation of section 594, subdivision (a). The information alleged that defendant had suffered one prior serious or violent felony conviction within the meaning of the “Three Strikes” law (§§ 667, subds. (b)-(i), 1170.12, subds. (a)-(d)). The same prior felony conviction was alleged for purposes of section 667, subdivision (a)(1). A jury convicted defendant as charged and found the vandalism damage to exceed \$400. Defendant waived a jury trial on his prior felony conviction, and after hearing the evidence, the trial court found the allegation to be true.

At sentencing, defendant’s sister spoke on his behalf and asked the court to impose the lower term of imprisonment. The court also heard from defendant. The trial court denied defendant’s *Romero* motion,² denied probation, and sentenced him to a total of nine years in state prison, composed of the middle term of two years as to count 1, doubled as a second strike, and enhanced by five years pursuant to section 667, subdivision (a)(1). As to count 2, the trial court imposed one-third the middle term, eight months, to run concurrently with the sentence on count 1. The court awarded custody credit of 172 actual days and 86 days of conduct credit, for a total of 258 days. The court imposed mandatory fines and fees, and ordered victim restitution of \$627. Defendant filed a timely notice of appeal.

The prosecution’s evidence showed that late at night on January 16, 2011, defendant boarded a bus with no other passengers, and made flirtatious comments to the driver, Trina Tillman (Tillman). Rebuffed, defendant yelled, cursed, hit and kicked parts of the bus, and paced back and forth close to the driver. When told that the last stop was approaching, defendant became enraged, cursed, screamed, and demanded to be taken to the beach, which was not on the route or nearby. At the next red light, Tillman stopped behind a police car and honked her horn. Angered further by this, defendant extended his

¹ All further statutory references are to the Penal Code, unless otherwise indicated.

² See *People v. Superior Court (Romero)* (1996) 13 Cal.4th 497.

hands toward her as though he were about to grab her, called her “bitch” and “whore” and said, “I’ll kill you.” Defendant’s threat and his behavior made Tillman fear for her life. She opened the bus door, and called to the police officer for help.

Los Angeles Police Officer Brian Churchill saw defendant’s gesture from his patrol car, and then saw defendant walking away from the bus. When Tillman said, “He threatened to kill me” and pointed at defendant, Officer Churchill detained, handcuffed, and placed defendant in the backseat of the patrol car. While Officer Churchill was interviewing Tillman, defendant placed his back against the front seatback and used his feet to kick out the rear window, causing it to shatter and bend the frame. The cost of repairing the window was \$627.39.

Defendant presented no evidence. The trial court denied a defense motion to reduce the charges to misdemeanors.

We have examined the entire record, including defendant’s letter containing his version of the events. We are satisfied that appellant’s attorney has fully complied with her responsibilities and that no arguable issue exists. We conclude that defendant has, by virtue of counsel’s compliance with the *Wende* procedure and our review of the record, received adequate and effective appellate review of the judgment entered against him in this case. (*Smith v. Robbins* (2000) 528 U.S. 259, 278; *People v. Kelly* (2006) 40 Cal.4th 106, 112-113.)

The judgment is affirmed.

NOT TO BE PUBLISHED IN THE OFFICIAL REPORTS.